

February 25, 2014

**CASES**

4                    No. 20  
The People &c.,  
    Respondent,  
    v.  
Gunther J. Flinn,  
    Appellant.

Order affirmed.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Graffeo, Read,  
Pigott and Abdus-Salaam concur.  
Judge Rivera dissents and votes to reverse in an  
opinion.

                          No. 29  
The People &c.,  
    Respondent,  
    v.  
Luis Guaman,  
    Appellant.

Order affirmed.  
Opinion by Judge Read.  
Judges Graffeo, Smith, Pigott and Rivera concur.  
Chief Judge Lippman concurs in result in an opinion.  
Judge Abdus-Salaam took no part.

1                    No. 23  
The People &c.,  
    Respondent,  
    v.  
Josefina Jimenez,  
    Appellant.

Order reversed, defendant's motion to suppress  
granted, the conviction of second-degree criminal  
possession of a weapon vacated and that count of the  
indictment dismissed, the conviction of criminal  
trespass in the first degree reduced to criminal  
trespass in the second degree and case remitted to  
Supreme Court, Bronx County for resentencing.  
Opinion by Chief Judge Lippman.  
Judges Graffeo, Smith and Rivera concur.  
Judge Abdus-Salaam dissents and votes to affirm in  
an opinion in which Judges Read and Pigott concur.

1                    No. 27  
Landauer Limited,  
    Appellant,  
    v.  
Joe Monani Fish Co., Inc.,  
    Respondent.

Order reversed, with costs, and plaintiff's motion for summary judgment in lieu of complaint granted, in a memorandum.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

2                    No. 22  
The People &c.,  
    Respondent,  
    v.  
Cheryl Santiago,  
    Appellant.

Order affirmed.  
Opinion by Judge Pigott.  
Judges Graffeo, Read, Smith and Abdus-Salaam concur.  
Judge Rivera dissents and votes to reverse in an opinion in which Chief Judge Lippman concurs.

4                    No. 11  
Deborah Voss, et al.,  
    Appellants,  
    v.  
The Netherlands Insurance Company, et al.,  
    Defendants,  
CH Insurance Brokerage Services, Co., Inc.,  
    Respondent.

Order reversed, with costs, and defendant CH Insurance Brokerage Services, Co., Inc.'s motion for summary judgment denied.  
Opinion by Judge Graffeo.  
Chief Judge Lippman and Judges Rivera and Abdus-Salaam concur.  
Judge Smith dissents and votes to affirm in an opinion in which Judges Read and Pigott concur.

## MOTIONS

1                    Mo. No. 2014-44  
In the Matter of 445 East 80th Street Tenants  
Association, &c.,  
                  Appellant,  
          v.  
New York State Division of Housing and  
Community Renewal,  
                  Respondent,  
Clermont York Associates,  
                  Intervenor-Respondent.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Judge Abdus-Salaam took no part.

1                    Mo. No. 2013-1287  
In the Matter of Rebecca Alfaro,  
                  Appellant,  
          v.  
Martha K. Hirst, &c., et al.,  
                  Respondents.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

2                    Mo. No. 2014-28  
The People &c.,  
                  Respondent,  
          v.  
Patrick Barclay,  
                  Appellant.

Motion for reargument of motion for leave to appeal  
denied.

1                    SSD 13  
Jennifer Cangro,  
    Appellant,  
    v.  
Mary V. Rosado,  
    Respondent.

Appeal, insofar as taken from that portion of the Appellate Division order that dismissed appellant's appeal from Supreme Court's order denying reargument, dismissed without costs, by the Court sua sponte, upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; appeal otherwise dismissed, without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.  
Judge Abdus-Salaam took no part.

4                    Mo. No. 2013-1256  
In the Matter of Christopher Cappon,  
    Appellant,  
    v.  
Carlos Carballada, &c.,  
    Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.  
Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4                    Mo. No. 2014-137  
In the Matter of Christopher Cappon,  
    Appellant,  
    v.  
Carlos Carballada, &c.,  
    Respondent.

Motion by New York State Coalition of Property Owners & Businesses, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

2                    SSD 14  
In the Matter of Dino Caroselli, Also Known  
as Wayne Horan,  
    Appellant,  
    v.  
Alan Marrus, &c.,  
    Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

1                    Mo. No. 2014-38  
In the Matter of Richard J. Condon, &c.,  
                  Appellant,  
                  v.  
Patricia Sabater,  
                  Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1                    Mo. No. 2014-123  
In the Matter of Richard J. Condon, &c.,  
                  Appellant,  
                  v.  
Patricia Sabater,  
                  Respondent.

Motion by New York State United Teachers for leave to appear amicus curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed.

2                    Mo. No. 2013-1292  
Iain Curtis-Shanley,  
                  Appellant,  
                  v.  
Bank of America,  
                  Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for leave to appeal denied.

2                    Mo. No. 2014-144  
Iain Curtis-Shanley,  
                  Appellant,  
                  v.  
Bank of America,  
                  Respondent.

Motion by appellant to strike respondent's affirmation in opposition to the motion for leave to appeal denied.

2                    Mo. No. 2014-183  
Iain Curtis-Shanley,  
                  Appellant,  
                  v.  
Bank of America,  
                  Respondent.

Motion by J. Shanley for leave to appear amicus curiae on the motion for leave to appeal herein denied.

3                    Mo. No. 2013-1249  
In the Matter of Kayden E., &c.

Motions for leave to appeal denied.

Otsego County Department of Social  
Services,  
    Respondent;  
Luis E.,  
    Appellant;  
et al.,  
    Respondent.  
(And Other Proceedings.)

1                    Mo. No. 2014-68  
The People &c. ex rel. Woodrow Flemming,  
    Appellant,  
    v.  
David Rock, &c.,  
    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2014-91  
In the Matter of Woodrow Flemming,  
    Appellant,  
    v.  
David Rock, &c.,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2014-84  
The People &c.,  
    Respondent,  
    v.  
Dennis Ford,  
    Appellant.

Motion for leave to appeal granted.  
Motion for poor person relief granted.

3                    Mo. No. 2014-25  
In the Matter of Frederick Franklin,  
                  Appellant,  
          v.  
New York State Board of Parole Appeals  
Unit,  
                  Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2014-98  
Shawn Green,  
                  Appellant,  
          v.  
State of New York,  
                  Respondent.

Motion for reargument of motion for leave to appeal denied.

1                    Mo. No. 2014-37  
Verina Hixon,  
                  Appellant,  
          v.  
12-14 East 64th Owners Corp., et al.,  
                  Respondents,  
et al.,  
                  Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judge Rivera took no part.

4                    Mo. No. 2014-94  
In the Matter of John D. Justice,  
                  Appellant,  
          v.  
Andrea W. Evans, &c.,  
                  Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2014-3  
The People &c.,  
                  Respondent,  
          v.  
Kenneth King,  
                  Appellant.

Motion for leave to appeal denied.

2                    SSD 15  
Nella Manko,  
                  Appellant,  
          v.  
Lenox Hill Hospital,  
                  Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (see NY Const, art VI, § 3[b]; CPLR 5601).

2                    Mo. No. 2014-27  
Nella Manko,  
                  Appellant,  
          v,  
Lenox Hill Hospital,  
                  Respondent.

Motion for reargument of motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

4                    Mo. No. 2014-76  
In the Matter of Dwayne McNally,  
                  Respondent,  
          v.  
Elizabeth McNally,  
                  Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

1 Mo. No. 2013-1271  
In the Matter of City of New York, et al.,  
Respondents,

v.

Contract Dispute Resolution Board of the  
City of New York,  
Respondent,  
New York Health Care, Inc.,  
Appellant.

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In the Matter of New York Health Care, Inc.,  
Appellant,

v.

New York City Human Resources  
Administration Home Care Services Program,  
et al.,  
Respondents.

Motions for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

1 Mo. No. 2014-90  
Anna Pezhman,  
Appellant,

v.

Department of Education of the City of New  
York, et al.,  
Respondents.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

4 Mo. No. 2014-55  
The People &c.,  
Respondent,

v.

Anthony S. Pignataro,  
Appellant.

Motion for reargument denied.

2 Mo. No. 2014-51  
The People &c.,  
Respondent,  
v.  
Virgil Seals,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

3 Mo. No. 2014-40  
The People &c. ex rel. Michael Aziz Zarif  
Shabazz &c.,  
Appellant,  
v.  
Jerome J. Richards &c. et al.,  
Respondents.

Motion for reconsideration of this Court's November  
21, 2013 dismissal order denied.

2 Mo. No. 2013-1265  
Mindy Sonnenschine,  
Appellant,  
v.  
Chana Taub, &c., et al.,  
Respondents.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

1 Mo. No. 2013-1140  
U.S. Bank National Association, &c.,  
Plaintiff,  
Syncora Guarantee Inc., &c.,  
et al.,  
Appellants,  
v.  
GreenPoint Mortgage Funding, Inc.,  
Respondent.

Motion for leave to appeal denied with one hundred  
dollars costs and necessary reproduction  
disbursements.  
Judge Abdus-Salaam took no part.

2 Mo. No. 2014-49  
The People &c.,  
Respondent,  
v.  
Raynold Voltaire,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2014-52  
The People &c.,  
    Respondent,  
    v.  
Robert Watson,  
    Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2014-50  
In the Matter of Working Families Party,  
    Appellant,  
    v.  
Fern A. Fisher, &c., et al.,  
    Respondents.

Motion to permit respondent Daniel M. Donovan, Jr.  
to file his brief under seal and to serve appellant with  
a version of said brief with redactions to eliminate  
references to material currently under seal by order  
of Supreme Court denied.  
Chief Judge Lippman took no part.